

may not use a civil rights action as an alternative to a petition for a writ of habeas corpus, which requires that he exhaust his state remedies. *See id.* at 489-90. Accordingly, to the extent the plaintiff is challenging the legality of his confinement, his civil complaint fails to state a claim on which relief may be granted because his sole federal remedy is a petition for a writ of habeas corpus, and he has not shown he exhausted his state remedies.

In addition, the Supreme Court has held that a plaintiff may not recover damages arising from an allegedly illegal incarceration without allegations that his underlying criminal conviction was reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal, or called into question by a federal court's issuance of a writ of habeas corpus. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). The plaintiff's complaint lacks allegations required to assert a damages claim demonstrating the invalidity of his underlying conviction.

Accordingly, the plaintiff's action is dismissed for failure to state a claim on which relief may be granted under 28 U.S.C. §1915A. The Court further certifies, pursuant to 28 U.S.C. §1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: May 22, 2015

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE